

CRB Review of Voluntary Cases

Presented by Steve Lindeman and Maiya Hall-Olsen

1

- Pair up with someone new and take a few minutes to discuss your experiences with voluntary cases:
 - Have you ever reviewed a voluntary case?
 - How did this voluntary case go?
 - Did you have any questions about voluntary cases?

Icebreaker: Voluntary Cases

2

Federal law created a provision for states to have voluntary cases so that children and families in need would not have to be court involved to receive assistance.

States have the option to implement voluntary cases under their IV-E State Plan.

**An overview:
Why are there voluntary cases?**

3

- If a state's child welfare agency decides to utilize voluntary cases this is included in the federal definition of "substitute care" and IV-E requirements for federal foster care payments apply.
- The requirements are intended as protections for children and families and even families involved with the state voluntarily are entitled to, and benefit from these protections.

**An overview:
Why are there voluntary cases?**

4

- There are two different types of voluntary agreements with some important distinctions and it is necessary to clarify which agreement is in effect.
- Many do not understand the difference between the two agreements or the appropriate use of the different voluntary agreements
- In both, all persons with legal custody of the child must sign the agreement.

Types of agreements: PLACEMENT and CUSTODY

5

VOLUNTARY PLACEMENT AGREEMENT

- The sole reason for placement is to obtain services for a child's emotional, behavioral, or mental disorder or developmental or physical disability.
- The parent retains custody in this type of agreement. This means that the parent (not DHS) continues to make medical and other types of decisions for the child.

Types of agreements: VOLUNTARY PLACEMENT

6

Example: Child was previously adopted through DHS and is now showing severe emotional/behavioral issues requiring out of home placement.

Types of agreements: VOLUNTARY PLACEMENT

7

VOLUNTARY CUSTODY AGREEMENT

- A parent or legal guardian is immediately and temporarily unable to fulfill his or her parental responsibilities.

Types of agreements: VOLUNTARY CUSTODY

8

Example: Child is experiencing problems in the home, school and community and the parent and child have engaged in serious arguing and fighting, including physical altercations. The parents are cooperative with DHS and willing to voluntarily engage in services.

Voluntary Custody Agreement

9

One important difference:

- A Voluntary Custody Agreement can go beyond age 18, up to age 21.
- A Voluntary Placement Agreement ends at age 18.

Distinguishing types of agreements

10

- As in court involved cases, the ICWA applies to voluntary cases as the children are placed in 'substitute care'.
- The ICWA requires a higher level of efforts (active efforts). In voluntary cases one way this is manifested is by requiring that the voluntary agreement be signed in court if the ICWA applies in a case.
- Notice is mandatory to Tribe(s).
- A child's heritage must be investigated.

The Indian Child Welfare Act (ICWA)

11

- In court involved cases this finding is designed to offer protection for families to ensure that families are kept together if possible. In a voluntary case the family is asking the state for help and that is why finding #1 is automatically a "yes" on voluntary cases.
- The federal protection in this regard on voluntary cases is the requirement for a "**judicial determination.**"

FINDING #1: Reasonable efforts to prevent the need for placement

12

- A ***judicial determination*** that it is in the 'best interest' of the child to remain in substitute care beyond 180 days is required in voluntary cases.
- If the finding is not made within 180 days of the child's placement in substitute care the case will not be IV-E eligible.

Judicial Determination

13

- DHS is still required to conduct a relative search in voluntary cases.
- Not all children in voluntary placements end up going back home, so a relative search at the beginning of the case is important.

FINDING #2: Diligent Efforts to Place with a Relative

14

- Emphasis is to be given to educational supports, verification of access to available services, and appropriateness of placement.
- In Voluntary cases the parent retains the authority to consent to psychotropic medication, major medical procedures, and other decisions.

FINDING #3: Services are in place to safeguard the child's safety, health, and well-being

15

- DHS has responsibility to:
 - Provide a placement for the child
 - Develop a visitation and contact plan
 - Attend treatment meetings and obtain reports
 - Monitor and contribute to implementation of the treatment plan

FINDING #3: Services are in place to safeguard the child's safety, health, and well-being

16

- The DHS case plan in a voluntary case, known as a *Family Support Services Case Plan*, addresses the service needs of the family, not just the child. DHS should be engaging the parents in case planning for the child, arranging for visitation, and providing additional services or training to address the special needs of the child.

FINDING #4: Reasonable Efforts to Return Home

17

- If a board is reviewing a voluntary case in which the court has implemented the concurrent plan, boards are to recommend that a dependency petition be filed. This is to address due process.
- A guardianship or adoption can also be implemented privately through domestic relations court.

FINDING #5: Reasonable Efforts to Finalize the Permanent Plan

18

- This finding asks whether parents have made sufficient progress to make it possible for the child to safely return home, **not** whether the parents are complying with DHS.
- Although the parents are not “court ordered” to engage in services, they do sign the agreement indicating they will cooperate with DHS.

FINDING #6: Parents have made sufficient progress

19

- A concurrent plan **is** required in a Voluntary **Custody** Agreement because DHS has both legal and physical custody of the child.
- Concurrent planning is **not** required when a child is placed pursuant to a Voluntary **Placement** Agreement because DHS has only physical custody of the child.

FINDING #7: Concurrent plan

20

- A judicial best interest determination is required within 180 days of a voluntary placement or custody agreement to qualify for the federal Title IV-E dollars.
- A permanency hearing must be held no later than 14 months after the child's original voluntary placement and at least once every 12 months thereafter until the child leaves substitute care.
- Court must be notified when a guardian enters into a voluntary agreement with DHS.

FINDING #8: Compliance with the Case Plan

21

- To change to the concurrent plan, a dependency petition must be filed.
- Even in voluntary cases, the 15 of the most recent 22 months requirement applies and the "clock is ticking". This is another example of IV-E requirements.

FINDING #9: The Permanent Plan is most appropriate

22

- Voluntary agreements can be terminated at any time by DHS or the parent or legal guardian.
- Voluntary ***Placement*** Agreements must end when a child reaches 18 years of age.
- Voluntary ***Custody*** Agreements can continue after a child reaches 18, but the young adult may terminate the agreement at any time.

FINDING #10: Continuing Need for Placement

23

- IV-E requirements for federal foster care reimbursement apply in voluntary cases to protect the children and families involved.
- Oregon administrative rule and statute pertaining to children in 'substitute care' also generally apply to voluntary cases.

Summary/Conclusion – How are they the same?

24

- Voluntary agreements can be very useful but only in limited circumstances.
- Voluntary cases offer some protections and safeguards but do not offer the full protections and safeguards that court involved cases have.

Summary/Conclusion – How are they different?

25

- Some caseworkers or others involved with the case will have misperceptions regarding the requirements for voluntary cases. Some common examples:
 - Don't need ICWA verification
 - Don't need relative search
 - Don't need Permanency Hearings
 - Only responsible for placement of child

Common Myths

26

**Thank you for your
interest and work on
behalf of children and
families**

27